



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,379	09/04/2001	Wolfgang Moderegger	007413-049	1270

21839 7590 06/02/2009  
BUCHANAN, INGERSOLL & ROONEY PC  
POST OFFICE BOX 1404  
ALEXANDRIA, VA 22313-1404

EXAMINER
----------

ADE, OGER GARCIA

ART UNIT	PAPER NUMBER
----------	--------------

3687

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

06/02/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte* WOLFGANG MODEREGGER  
and CHRISTIAN STEINLEHNER

---

Application 2008-004394  
Application 09/944,379  
Technology Center 3600

---

Mailed: May 29, 2009

---

Before DALE M. SHAW, *Chief Appeals Administrator*.

ORDER DENYING ORAL HEARING

This application was electronically received by the Board of Patent Appeals and Interferences on July 9, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matters requiring attention prior to docketing.

TIMELINESS/ FEES

The review of the file reveals that the Oral Hearing filed April 25, 2008 has not been timely filed and/or is missing the necessary extensions of time and/or filing fee(s). This request is denied. 37 C.F.R. § 1.194 sets forth the requirements for the request for an Oral Hearing and is reproduced below.

§ 1.194 Oral hearing.

(a) An oral hearing should be requested only in those circumstances in which the appellant considers such a hearing necessary or desirable for a proper presentation of his appeal. An appeal decided without an oral hearing will receive the same consideration by the Board of Patent Appeals and Interferences as appeals decided after oral hearing.

(b) If appellant desires an oral hearing, appellant must file a written request for such hearing accompanied by the fee set forth in § 1.17(g) within two months after the date of the examiner's answer. If the appellant requests an oral hearing and submits therewith the fee set forth in § 1.17(g), an oral argument may be presented by, or on behalf of, the primary examiner if considered desirable by either the primary examiner or the Board. See § 1.136(b) for extensions of time for requesting an oral hearing in a patent application and § 1.550(c) for extensions of time in a reexamination proceeding.

(c) If no request and fee for oral hearing have been timely filed by the appellant, the appeal will be assigned for consideration and decision. If the appellant has requested an oral hearing and has submitted the fee set forth in § 1.17(g), a day of hearing will be set, and due notice thereof given to appellant and to the primary

Appeal No. 2008-004394  
Application 09/944,379

examiner. Hearing will be held as stated in the notice, and oral argument will be limited to twenty minutes for the appellant and fifteen minutes for the primary examiner unless otherwise ordered before the hearing begins.

In the instant application, Appellants requested the Oral Hearing almost six months after the expiration of the two month period from the date of the Examiner's Answer. Since the Appellants did not comply with 37 C.F.R. § 1.136(b), the request for Oral Hearing is considered untimely, and thus is denied.

Accordingly, it is ORDERED that the application be decided based upon the written record before the Board of Patent Appeals and Interferences.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

kis

BUCHANAN, INGERSOLL & ROONEY, P.C.  
POST OFFICE BOX 1404  
ALEXANDRIA, VA 22313-1404